

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than “legal conclusions” and “[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a “mere possibility of misconduct.” *Id.* at 679. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 678.

## **The Complaint**

Plaintiff sues Ian Wallace, the Warden at the Southeast Correctional Center (“SECC”); Corizon Health Services (“Corizon”); SECC; and the Department of Corrections (the “Department”). Plaintiff’s allegations are entirely vague and conclusory, and he does not allege anything specific against Wallace. Plaintiff sues Wallace in his individual and official capacities.

Plaintiff frames most of his allegations as questions, such as whether prisoners have a right to access a law library or receive health care? Plaintiff alleges that he does not have any shoes, but he does not allege who is responsible for this deprivation. He also alleges that he does not have stamps and that he has not received any medication for his high blood pressure. Plaintiff says he feels his life is in danger because he tried to stab a guard who is now a captain. However, he does not allege that he has been threatened by any prison officials.

## **Discussion**

Plaintiff’s hypothetical questions are not actionable.

Naming a government official in his or her official capacity is the equivalent of naming the government entity that employs the official, in this case the State of Missouri. *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 71 (1989). “[N]either a State nor its officials acting in their official capacity are ‘persons’ under § 1983.” *Id.* As a result, the complaint fails to state a claim upon which relief can be granted against defendant Wallace in his official capacity. The complaint fails to state a claim against SECC and the Department for this reason as well.

“Liability under § 1983 requires a causal link to, and direct responsibility for, the alleged deprivation of rights.” *Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990); *see Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (“Because vicarious liability is inapplicable to *Bivens* and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.”). In the instant action, plaintiff has not set forth any facts indicating that defendant Wallace was directly involved in or personally responsible for the alleged violations of his constitutional rights. As a result, the complaint fails to state a claim upon which relief can be granted against Wallace in his individual capacity.

To state a claim against Corizon, plaintiff must allege that a policy or custom of Corizon led to a serious medical injury. *Sanders v. Sears Roebuck & Co.*, 984 F.2d 972, 95-76 (8th Cir. 1993). There are no such allegations in the complaint, and therefore, plaintiff’s allegations against Corizon are frivolous.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis [ECF No. 5] is **GRANTED**.

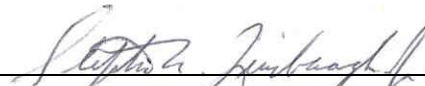
**IT IS FURTHER ORDERED** that the plaintiff must pay an initial filing fee of \$1.70 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to “Clerk, United States District Court,” and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

**IT IS FURTHER ORDERED** that plaintiff's motion for emergency injunctive relief [ECF No. 4] is **DENIED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 29<sup>th</sup> day of September, 2015.

  
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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE